

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BRIAN WARREN,

Petitioner,

Case Number: 07-CV-12773

v.

HONORABLE PAUL D. BORMAN

RAYMOND BOOKER,

Respondent.

**ORDER DENYING PETITIONER'S MOTION TO
REMAND TO STATE TRIAL COURT**

Petitioner Brian Warren filed a *pro se* petition for a writ of habeas corpus. The Court has directed Respondent to file an answer to the petition by April 21, 2008. Now before the Court is Petitioner's Motion to Remand to State Trial Court.

Petitioner seeks a remand to state court to present the claim that the state court lacked subject matter jurisdiction to try him. The pending habeas corpus petition did not originate in state court. Therefore, the Court may not remand the matter to state court. *See* 28 U.S.C. §§ 1447, 1448 (failing to provide for remand of complaints originally filed in district court); *Reynolds v. Harris-Spicer*, No. 1:05-CV-527, 2007 WL 1657406, * 4 (W.D. Mich. June 07, 2007) (holding it would be “improper” for federal court to “remand” to state court a matter that originated in federal court); *Ingram v. School Bd. of Miami-Dade County*, 167 Fed. App’x 107, 109 (11th Cir. 2006) (“[B]ecause this [federal court] action did not originate in state court it was impossible for the district court to remand it to a state court.”).

The issue Petitioner raises in his Motion to Remand is not raised in his habeas corpus petition. To the extent that Petitioner wishes to return to state court to present this unexhausted

claim before presenting it in his habeas petition, Petitioner may file a motion for voluntary dismissal of his petition without prejudice.

Accordingly, **IT IS ORDERED** that Petitioner's Motion to Remand to State Trial Court [dkt. # 6] is **DENIED**.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: March 24, 2008

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on March 24, 2008.

s/Denise Goodine
Case Manager